

HOUSE BILL No. 2091

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2; IC 31-14; IC 31-15; IC 31-16; IC 31-17.

Synopsis: Various family law issues. Establishes a rebuttable presumption that joint legal custody and joint physical custody is in the best interests of a child in dissolution of marriage and paternity cases. Changes the factors that the court uses in determining whether to order joint physical and joint legal custody. Provides that whenever the court does not order joint physical custody, a noncustodial parent is entitled to certain minimum visitation. Establishes guidelines for a court to use in ordering visitation. Prescribes standards for parties to follow to facilitate visitation. Requires a court that finds an intentional violation of a visitation order to be confined to the county jail for seven days for each violation of the court's visitation order. Provides that whenever
(Continued next page)

Effective: July 1, 1999.

Whetstone, Kruse

January 27, 1999, read first time and referred to Committee on Judiciary.



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parties have contested issues arising out of a dissolution of marriage case, the court shall refer the proceeding to mediation or counseling. Provides that whenever a visitation order is not complied with, a court may deposit child support funds in an escrow account until the visitation order is complied with. Provides that a court may not decree a legal separation or a dissolution of marriage unless the parties participate in at least 40 hours of court approved counseling. Provides grounds for a custody modification if a person who has been awarded joint physical or joint legal custody, or both, moves outside Indiana or at least 100 miles from the person's county of residence. Provides that whenever a person is delinquent in the payment of child support, the court shall order the person to pay the delinquent support at certain regular intervals provided that the other parent has complied with court orders relating to the paternity or dissolution of marriage action, including court orders involving custody and visitation. Provides that a judge who fails to comply with certain statutory provisions relating to dissolution of marriage, paternity, custody, or visitation commits official misconduct and: (1) is not entitled to judicial immunity; and (2) may not be represented at the state's expense in an action against the judge for official misconduct. Requires that within each two year period that a judge presides over a court with jurisdiction over dissolution of marriage or paternity matters, the judge shall participate in 40 hours of training in shared parenting. Repeals certain provisions concerning joint legal custody. Makes certain other changes.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 2091

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 31-9-2-67 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 67. "Joint legal
3 custody", for purposes of ~~IC 31-17-2-13, IC 31-17-2-14, and~~
4 ~~IC 31-17-2-15, IC 31-14-13 and IC 31-17-2~~, means that the persons
5 awarded joint custody will share authority and responsibility for the
6 major decisions concerning the child's upbringing, including the child's
7 education, health care, and religious training. **The term does not**
8 **include an equal division of physical custody of the child.**
9 SECTION 2. IC 31-9-2-67.5 IS ADDED TO THE INDIANA CODE
10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 1999]: Sec. 67.5. "Joint physical custody", for purposes of
12 **IC 31-14-13 and IC 31-17-2**, means that a child's parents share
13 **physical custody of the child as equally as possible.**
14 SECTION 3. IC 31-14-1-2 IS ADDED TO THE INDIANA CODE
15 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1, 1999]: Sec. 2. A judge who fails to comply with the provisions of this article commits official misconduct under IC 35-44-1-2 and:

- (1) is not entitled to judicial immunity; and
- (2) may not be represented at the state's expense in an action against the judge for official misconduct.

SECTION 4. IC 31-14-1-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. Within each two (2) year period that a judge presides over a court with jurisdiction over paternity and dissolution of marriage actions, the judge shall participate in forty (40) hours of training in shared parenting to be conducted by a:

- (1) professional with expertise in child development; or
- (2) clinical child psychologist.

SECTION 5. IC 31-14-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) If the court finds that a party is delinquent as a result of an intentional violation of an order for support, the court ~~may~~ shall find the party in contempt of court.

(b) The court shall order a party who is found in contempt of court under this section to pay all delinquent support at regular intervals as ordered by the court provided that the other party complied with all court orders in the paternity action including custody and visitation orders.

(c) The court may order a party who is found in contempt of court under this section to perform community service without compensation in a manner specified by the court.

SECTION 6. IC 31-14-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The court shall determine custody in accordance with the best interests of the child. In determining the child's best interests, **there is a rebuttable presumption that joint legal custody and joint physical custody are in the best interests of the child,** and there is not a presumption favoring either parent.

The court shall consider all relevant factors, including the following:

- (1) The age and sex of the child.
- (2) The wishes of the child's parents.
- (3) The wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age.
- (4) The interaction and interrelationship of the child with:
 - (A) the child's parents;
 - (B) the child's siblings; and
 - (C) any other person who may significantly affect the child's



best interest:

(5) The child's adjustment to home, school, and community;

(6) The mental and physical health of all individuals involved;

(7) Evidence of a pattern of domestic violence by either parent.

(b) The court shall order joint physical custody whenever:

(1) the child's parents are willing to advance the child's welfare; and

(2) the child's parents live in close proximity to each other and plan to continue to do so.

(c) The court shall order joint legal custody whenever only one (1) of the child's parents wants physical custody of the child.

SECTION 7. IC 31-14-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) If an individual who has been awarded **sole or joint** custody of a child under this chapter (or IC 31-6-6.1-11 before its repeal) intends to move to a residence other than a residence specified in the custody order that is outside Indiana or at least one hundred (100) miles from the individual's county of residence, the individual must:

(1) file a notice of that intent with the clerk of the court that issued the custody order; and

(2) send a copy of the notice to ~~each noncustodial~~ **the other parent who was awarded joint physical or legal custody of the child, or both, or was not awarded custody and who has been granted visitation rights under IC 31-14-14 (or IC 31-6-6.1-12 before its repeal).**

(b) Whenever a person with sole or joint physical or joint legal custody moves:

(1) to a residence other than a residence specified in the custody order that is outside Indiana; or

(2) at least one hundred (100) miles from the individual's county of residence;

the court shall grant physical custody of the child within thirty (30) days approximately seventy-five percent (75%) of the time each year to the parent who does not move and who initiates a custody modification proceeding under this chapter, and the remaining twenty-five percent (25%) of the time each year physical custody shall be granted to the parent who moves or intends to move.

SECTION 8. IC 31-14-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) A noncustodial parent is entitled to reasonable visitation rights **as described in subsection (b)** unless the court finds, after a hearing, that visitation might:



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(1) endanger the child's physical health and well-being; or

(2) significantly impair the child's emotional development.

(b) Whenever the court orders visitation under this section, the court shall order the visitation periods prescribed by IC 31-17-4-1.5 unless the court enters into the record written findings of fact and conclusions of law that state why disregarding the visitation periods prescribed by IC 31-17-4-1.5 is appropriate.

SECTION 9. IC 31-14-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. **(a)** A court that finds a violation without justifiable cause by a custodial parent of an injunction or a temporary restraining order issued under this chapter (or IC 31-6-6.1-12.1 before its repeal):

(1) shall find the custodial parent in contempt of court;

(2) shall order the exercise of visitation that was not exercised due to the violation under this section (or IC 31-6-6.1-12.1(e) before its repeal) at a time the court considers compatible with the schedules of the noncustodial parent and the child;

(3) shall order the custodial parent to be confined to the county jail for seven (7) days for each violation of the court's order;

(4) may order payment by the custodial parent of reasonable attorney's fees, costs, and expenses to the noncustodial parent; and

~~(4)~~ **(5)** may order the custodial parent to perform community service without compensation in a manner specified by the court.

(b) Whenever a petition for enforcement of a visitation order is filed, a parent is allowed to deposit child support funds in an escrow account of the court clerk, and child support funds must be held in the escrow account until the court finds that the visitation order is complied with.

SECTION 10. IC 31-15-1-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. **A judge who fails to comply with this chapter commits official misconduct under IC 35-44-1-2 and:**

(1) is not entitled to judicial immunity; and

(2) may not be represented at the state's expense in any action against the judge for official misconduct.

SECTION 11. IC 31-15-1-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. **With each two (2) year period that a judge presides over a court with jurisdiction over paternity and dissolution of marriage actions, the judge shall participate in forty (40) hours of training in shared parenting to be conducted by a:**



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- 1 **(1) professional with expertise in child development; or**
 2 **(2) clinical child psychologist.**

3 SECTION 12. IC 31-15-2-3 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. Dissolution of
 5 marriage shall be decreed upon a finding by a court of one (1) of the
 6 following grounds and no other ground:

- 7 (1) Irretrievable breakdown of the marriage.
 8 (2) The conviction of either of the parties, subsequent to the
 9 marriage, of a felony.
 10 (3) Impotence, existing at the time of the marriage.
 11 (4) Incurable insanity of either party for a period of at least two
 12 (2) years.

13 **However, the court may not decree a dissolution of marriage unless**
 14 **the parties have participated in forty (40) hours of court approved**
 15 **counseling sessions.**

16 SECTION 13. IC 31-15-2-15 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) At the final
 18 hearing on a petition for dissolution of marriage, the court shall
 19 consider evidence, including agreements and verified pleadings filed
 20 with the court. If the court finds that the material allegations of the
 21 petition are true **and that the parties have participated in forty (40)**
 22 **hours of court approved counseling sessions,** the court:

- 23 (1) shall enter a dissolution decree as provided in section 16 of
 24 this chapter; or
 25 (2) if the court finds that there is a reasonable possibility of
 26 reconciliation, may continue the matter and order the parties to
 27 seek reconciliation through any available counseling.
 28 (b) At any time forty-five (45) days after the date of a continuance:
 29 (1) either party may move for the dissolution of the marriage; and
 30 (2) the court may enter a dissolution decree as provided in section
 31 16 of this chapter.
 32 (c) If no motion for the dissolution is filed, the matter shall be,
 33 automatically and without further action by the court, dismissed after
 34 the expiration of ninety (90) days from the date of continuance.

35 SECTION 14. IC 31-15-3-3 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. Legal separation
 37 shall be decreed upon a finding by a court:

- 38 (1) that conditions in or circumstances of the marriage make it
 39 currently intolerable for both parties to live together; and
 40 (2) that the marriage should be maintained.

41 **However, the court may not decree a legal separation unless the**
 42 **parties have participated in at least forty (40) hours of court**



1 **approved counseling sessions.**

2 SECTION 15. IC 31-15-4-9 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. The court ~~may~~ **shall**
4 require the parties **in a dissolution of marriage action** to seek **forty**
5 **(40) hours of counseling for themselves or for a child of the parties**
6 under such terms and conditions that the court considers appropriate if:

7 (1) ~~either party makes a motion for counseling in an effort to~~
8 ~~improve conditions of their marriage;~~

9 (2) ~~a party, the child of the parties, the child's guardian ad litem~~
10 ~~or court appointed special advocate, or the court makes a motion~~
11 ~~for counseling for the child; or~~

12 (3) ~~the court makes a motion for counseling for parties who are~~
13 ~~the parents of a child less than eighteen (18) years of age.~~

14 **before the court may decree a dissolution of marriage.**

15 SECTION 16. IC 31-15-7-10 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. Notwithstanding
17 any other law, all orders and awards contained in a dissolution of
18 marriage decree or legal separation decree: ~~may~~

19 (1) ~~shall~~ be enforced by

20 (1) ~~contempt; and~~

21 (2) **may be enforced by:**

22 (A) **an** assignment of wages or other income; or

23 (3) (B) **any other remedies available for the enforcement of a**
24 **court order;**

25 except as otherwise provided by this article.

26 SECTION 17. IC 31-15-9.4-1 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. Whenever the court
28 issues an order under this article, other than an ex parte order, the court
29 shall determine whether the ~~proceeding should be referred to~~
30 ~~mediation. In making this determination, the court shall consider:~~

31 (1) ~~the ability of the parties to pay for the mediation services; and~~

32 (2) ~~whether mediation is appropriate in helping the parties resolve~~
33 ~~their disputes.~~

34 **parties have any contested issues. Whenever the parties have**
35 **contested issues, the court shall refer the proceeding to mediation**
36 **or counseling.**

37 SECTION 18. IC 31-16-1-3 IS ADDED TO THE INDIANA CODE
38 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
39 1, 1999]: Sec. 3. **A judge who fails to comply with this chapter**
40 **commits official misconduct under IC 35-44-1-2 and:**

41 (1) **is not entitled to judicial immunity; and**

42 (2) **may not be represented at the state's expense in an action**



1 **against the judge for official misconduct.**

2 SECTION 19. IC 31-16-12-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. Notwithstanding any
4 other law, all orders and awards contained in a child support decree:
5 ~~may~~

6 (1) **shall** be enforced by

7 ~~(1)~~ contempt; **and**

8 (2) **may be enforced by:**

9 (A) **an** assignment of wages or other income; or

10 ~~(2)~~ (B) any other remedies available for the enforcement of a
11 court order;

12 except as otherwise provided by IC 31-16-2 through IC 31-16-11 or
13 this chapter.

14 SECTION 20. IC 31-16-12-6 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) If the court finds
16 that a party is delinquent as a result of an intentional violation of an
17 order for support, the court ~~may~~ **shall** find the party in contempt of
18 court. **Whenever the court finds a party in contempt of court under**
19 **this subsection, the court shall order the party to:**

20 (1) **pay the delinquent support at regular intervals; and**

21 (2) **perform community service without compensation.**

22 (b) The court may order a party who is found in contempt of court
23 under this section to perform community service without compensation
24 in a manner specified by the court.

25 SECTION 21. IC 31-17-1-3 IS ADDED TO THE INDIANA CODE
26 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
27 1, 1999]: Sec. 3. **A judge who fails to comply with this chapter**
28 **commits official misconduct under IC 35-44-1-2 and:**

29 (1) **is not entitled to judicial immunity; and**

30 (2) **may not be represented at the state's expense in an action**
31 **against the judge for judicial misconduct.**

32 SECTION 22. IC 31-17-2-8 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The court shall
34 determine custody and enter a custody order in accordance with the
35 best interests of the child. In determining the best interests of the child,
36 **there is a rebuttable presumption that joint legal custody and joint**
37 **physical custody are in the best interests of the child.** There is no
38 presumption favoring either parent. The court shall ~~consider all~~
39 **relevant factors, including the following:**

40 ~~(1) The age and sex of the child.~~

41 ~~(2) The wishes of the child's parent or parents.~~

42 ~~(3) The wishes of the child, with more consideration given to the~~

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child's wishes if the child is at least fourteen (14) years of age.

(4) The interaction and interrelationship of the child with:

(A) the child's parent or parents;

(B) the child's sibling; and

(C) any other person who may significantly affect the child's best interests.

(5) The child's adjustment to the child's:

(A) home;

(B) school; and

(C) community.

(6) The mental and physical health of all individuals involved.

(7) Evidence of a pattern of domestic violence by either parent.

order joint physical custody whenever:

(1) the child's parents are willing to advance the child's welfare; and

(2) the child's parents live in close proximity to each other and plan to continue to do so.

(b) The court shall order joint legal custody whenever only one (1) of the child's parents wants physical custody of the child.

SECTION 23. IC 31-17-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 23. (a) If an individual who has been awarded **sole or joint** custody of a child under this chapter intends to move to a residence:

(1) other than a residence specified in the custody order; and

(2) that is outside Indiana or at least one hundred (100) miles from the individual's county of residence;

the individual must file a notice of the intent to move with the clerk of the court that issued the custody order and send a copy of the notice to the **other** parent who was **awarded joint physical or legal custody of the child, or both, or was** not awarded custody and who has been granted visitation rights under IC 31-17-4 (or IC 31-1-11.5-24 before its repeal).

(b) Whenever a person with sole or joint physical or joint legal custody, or both, moves:

(1) to a residence other than a residence specified in the custody order that is outside of Indiana; or

(2) at least one hundred (100) miles from the individual's county of residence;

the court shall grant physical custody of the child approximately seventy-five percent (75%) of the time each year to the parent who does not move and who initiates a custody modification proceeding under this chapter and the remaining twenty-five percent (25%) of



the time each year physical custody shall be granted to the parent who moves or intends to move.

(c) Upon request of either party, the court shall set the matter for a hearing for the purposes of reviewing and modifying, if appropriate, the custody, visitation, and support orders. The court shall take into account the following in determining whether to modify the custody, visitation, and support orders:

(1) The distance involved in the proposed change of residence.

(2) The hardship and expense involved for noncustodial parents to exercise visitation rights.

~~(c)~~ (d) Except in cases of extreme hardship, the court may not award attorney's fees.

SECTION 24. IC 31-17-4-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 1.5. (a) This section applies whenever the court does not order joint physical custody under IC 31-14-13-2 or IC 31-17-2-8.**

(b) The court shall order the visitation periods prescribed by this section unless the court enters into the record written findings of fact and conclusions of law that state why disregarding the visitation periods prescribed by this section is appropriate.

(c) The noncustodial parent is entitled to exercise visitation at reasonable times and places. However, if the parties are not able to agree on the times and places for exercising reasonable visitation, the minimum visitation to which the noncustodial parent is entitled is as follows:

(1) Alternating weekends from 6 p.m. Friday until 7 p.m. Sunday.

(2) In years ending in an odd number:

(A) from 6 p.m. until 9 p.m. the night before the child's birthday, during which period the noncustodial parent is simultaneously entitled to visitation with the child whose birthday is the following day and any sibling of the child with whom the noncustodial parent has visitation rights;

(B) Memorial Day weekend from 6 p.m. Friday until 7 p.m. Monday;

(C) Independence Day holiday from 6 p.m. July 3 until 7 p.m. July 5;

(D) Thanksgiving holiday from 6 p.m. Wednesday until 7 p.m. Sunday;

(E) Christmas holiday from 5 p.m. to 11 p.m. on Christmas Eve and from 6 p.m. December 26 until 7 p.m. January 1;



and

(F) Martin Luther King, Jr. holiday from 7 p.m. on the day before the state holiday until 7 p.m. on the state holiday.

(3) In years ending in an even number:

(A) the child's birthday, during which period the noncustodial parent is simultaneously entitled to visitation with the child having the birthday and any sibling of the child with whom the noncustodial parent has visitation rights;

(B) Easter weekend from 6 p.m. Good Friday until 7 p.m. Easter Sunday;

(C) Labor Day weekend from 6 p.m. Friday until 7 p.m. Monday;

(D) Halloween evening from 6 p.m. until 9 p.m.;

(E) Christmas holiday from 6 p.m. December 20 until 6 p.m. December 26 except for the period from 5 p.m. to 11 p.m. on Christmas Eve; and

(F) the child's spring break from school.

(4) The noncustodial parent's birthday.

(5) Mother's Day weekend if the noncustodial parent is the child's mother or Father's Day weekend if the noncustodial parent is the child's father.

(6) This subdivision applies to visitation with a child who is an infant or preschool age. Two (2) weeks in June and two (2) weeks in July:

(A) as chosen by the noncustodial parent; and

(B) to be determined by May 1 of each year.

Visitation by the custodial parent is not permitted during the periods specified under this subdivision.

(7) This subdivision applies to visitation with a child who is school age. Two (2) nonconsecutive three (3) week periods:

(A) to be chosen by the noncustodial parent; and

(B) to be determined by May 1 of each year.

The custodial parent is also entitled to a similar period with the child without interruption. Visitation by the custodial parent is not permitted during the periods specified under this subdivision.

(d) Whenever the noncustodial parent exercises visitation, at the beginning of each visitation period the custodial parent shall pick up the child at the residence of the custodial parent or at a mutually agreed upon location. At the end of each visitation period, the custodial parent shall pick up the child at the residence of the



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1 noncustodial parent or at a mutually agreed upon location. Each
 2 parent shall have the child available for visitation and the child's
 3 return to the custodial parent's home at the appropriate time.

4 (e) The noncustodial parent shall give the custodial parent three
 5 (3) days prior notice if the noncustodial parent does not intend to
 6 exercise visitation. However, if an emergency situation exists, the
 7 noncustodial parent must give notice to the extent possible under
 8 the circumstances.

9 (f) Each parent is encouraged to allow family situations such as
 10 weddings or funerals of close family members to take precedence
 11 over the visitation guidelines under this section.

12 (g) The court shall order each parent to supply the other parent
 13 with an accurate and a current residence address and telephone
 14 number. The court shall order each parent to allow the other
 15 parent liberal but reasonable telephone and mail privileges with
 16 the child.

17 (h) The court shall order the custodial parent to do the
 18 following:

19 (1) Provide copies of all school and medical reports to the
 20 noncustodial parent not later than ten (10) days after
 21 receiving the reports.

22 (2) Immediately notify the noncustodial parent about a
 23 medical emergency.

24 (3) Inform the noncustodial parent of school and social
 25 functions permitting parental participation not later than
 26 twenty-four (24) hours after the custodial parent learns about
 27 the function.

28 (i) The noncustodial parent is entitled to attend a school or
 29 social function of the child, regardless of whether the function
 30 occurs during the noncustodial parent's visitation period. A
 31 custodial parent may not prohibit a child from attending a school
 32 function as the result of the custodial parent's inability to attend
 33 the function whenever the noncustodial parent is available to
 34 supervise the child at the function. Whenever the custodial parent
 35 is unable to attend a school function with the child, the
 36 noncustodial parent may attend the function with the child.

37 (j) A parent may not deny visitation or child support as a result
 38 of the other parent's failure to comply with a court order.

39 SECTION 25. IC 31-17-4-8 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) A court that finds
 41 an intentional violation without justifiable cause by a custodial parent
 42 of an injunction or a temporary restraining order issued under this



- 1 chapter (or IC 31-1-11.5-26 before its repeal):
- 2 (1) shall find the custodial parent in contempt of court;
- 3 (2) shall order the exercise of visitation that was not exercised due
- 4 to the violation under this section at a time the court considers
- 5 compatible with the schedules of the noncustodial parent and the
- 6 child;
- 7 **(3) shall order the custodial parent confined in the county jail**
- 8 **for seven (7) days for each violation of the court's order;**
- 9 **(4)** may order payment by the custodial parent of reasonable
- 10 attorney's fees, costs, and expenses to the noncustodial parent;
- 11 and
- 12 ~~(4)~~ **(5)** may order the custodial parent to perform community
- 13 service without compensation in a manner specified by the court.
- 14 **(b) Whenever a petition for enforcement of a visitation order is**
- 15 **filed, a noncustodial parent is allowed to deposit child support**
- 16 **payments in an escrow account of the court clerk. The child**
- 17 **support payments shall be held in the escrow account until the**
- 18 **court finds that the visitation order is complied with.**
- 19 SECTION 26. THE FOLLOWING ARE REPEALED [EFFECTIVE
- 20 JULY 1, 1999]: IC 31-17-2-13; IC 31-17-2-14; IC 31-17-2-15.

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